

GORDON REES SCULLY  
MANSUKHANI, LLP  
Ryan E. Dempsey, Esq. (RD-8201)  
Attorneys for Defendants  
HORBLOWER GROUP, INC.,  
HORBLOWER NEW YORK, LLC and  
HORBLOWER CRUISES AND EVENTS, LLC  
500 Mamaroneck Avenue, Suite 503  
Harrison, New York 10528  
(914) 777-2225

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LENNY MOLINA,	:	Civil No.: 20-cv-10821(GHW) (OTW)
	:	
Plaintiff,	:	
	:	<b><u>NOTICE OF EXPERT EXCHANGE</u></b>
-against-	:	
	:	
HORBLOWER GROUP, INC.,	:	
HORBLOWER NEW YORK, LLC and	:	
HORBLOWER CRUISES AND EVENTS,	:	
LLC,	:	
	:	
Defendants.	:	
-----	X	

C O U N S E L O R ( S ) :

Pursuant to the Federal Rules of Civil Procedure, defendants, HORBLOWER GROUP, INC., HORBLOWER NEW YORK, LLC and HORBLOWER CRUISES AND EVENTS, LLC, by and through their attorneys, GORDON REES SCULLY MANSUKHANI, LLP, hereby identify Paul M. Greenberg, DPM, FACFAS, as an expert foot surgery and podiatrist witness who may be called to the stand at the time of Trial in accordance with the following:

1. Dr. Paul M. Greenberg is currently affiliated with NYU Langone Podiatry Associates – Upper West Side, located at 101 West 79<sup>th</sup> Street, New York, New York 10024. He is licensed to practice podiatric medicine in the State of New York under license number

N004559. He has obtained a Doctor of Podiatric Medicine Degree from the New York College of Podiatric Medicine. Dr. Greenberg is Board Certified by the American Board of Foot and Ankle Surgery, and is a Fellow with the American College of Foot and Ankle Surgeons and the American Academy of Podiatric Sports Medicine;

2. Dr. Greenberg's Curriculum Vitae, which includes a list of publications and presentations, is annexed hereto and made a part hereof, thereby providing his credentials;

3. Dr. Greenberg will testify in conformity with his report dated August 13, 2021, a copy of which is annexed hereto and made a part hereof;

4. The fee for the review of records, examination of plaintiff and preparation of the aforesaid report by Dr. Greenberg is \$1,775.00. It is further anticipated that Dr. Greenberg will charge \$6,000.00 for half-day Trial testimony in this matter; and

5. Dr. Greenberg does not maintain a list of cases in which he has testified in the last four years, but can recall offering testimony in the following: McDowell v. Pollack, Parilla v. Sapphire; ? v. Bernstein; and Holzberg v. NYSC.

Dated: Harrison, New York  
August 25, 2021

Respectfully Submitted,

GORDON REES SCULLY  
MANSUKHANI, LLP

By: 

Ryan E. Dempsey (RD-8201)  
Attorneys for Defendants  
HORNBLOWER GROUP, INC., HORNBLOWER  
NEW YORK, LLC and HORNBLOWER  
CRUISES AND EVENTS, LLC  
500 Mamaroneck Ave Suite 503  
Harrison, NY 10528

T: (914) 777-2209  
File No.: EVR-1224573

TO: Jonathan Shalom, Esq.  
SHALOM LAW PLLC  
Attorneys for Plaintiff  
105-13 Metropolitan Avenue  
Forest Hills, New York 11375  
T: (718) 971-9474

**AFFIDAVIT OF SERVICE BY MAIL**

STATE OF NEW YORK                     )  
   ) ss.:  
COUNTY OF WESTCHESTER         )

BRITTANY BLOUNT, being duly sworn, deposes and says:

I am not a party to the action, am over the age of 18 years of age, and am employed in Westchester County, New York.

On August 25, 2021, I served the within **NOTICE OF EXPERT EXCHANGE** by depositing a true copy thereof enclosed in a postpaid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

TO:

Jonathan Shalom, Esq.  
SHALOM LAW PLLC  
Attorneys for Plaintiff  
105-13 Metropolitan Avenue  
Forest Hills, New York 11375  
T: (718) 971-9474

  
Brittany Blount

Sworn to before me this  
25<sup>th</sup> day of August, 2021

  
\_\_\_\_\_  
Notary Public



# EXHIBIT A

**PAUL M. GREENBERG, D.P.M., F.A.C.F.A.S.**

101 West 79th Street  
New York, N.Y. 10024  
(212) 874-3578

**CURRICULUM VITAE**

**EDUCATION:**

**Undergraduate:**

Northwestern University, September 1981- June 1985  
Evanston, Illinois  
Degree: B.S. Economics

**Medical:**

New York College of Podiatric Medicine, September 1985- May 1989  
New York, New York  
Degree: Doctor of Podiatric Medicine  
Cum Laude

**Residency Training:**

Two Year Podiatric Surgical Residency, Atlanta Georgia,  
July 1989- June 1991  
Atlanta Hospital and Medical Center

**BOARD CERTIFICATIONS:**

Diplomate, American Board of Foot and Ankle Surgery, August 1994  
Re-certified 2002-2014  
Re-certified 2012-2024

Fellow, American College of Foot and Ankle Surgeons, October 1994

Fellow, American Academy of Podiatric Sports Medicine, August 2001

**HOSPITAL POSITIONS:**

**NYU Langone Health**, Department of Orthopedics  
NYU Faculty Group Practice, March 1, 2016-Present

Mount Sinai Hospital West, NYC, 1992-2016

Outpatient Podiatry Service, St. Luke's-Roosevelt Hospital, NYC,  
1992-1997

**OTHER POSITIONS:**

President, American College of Foot and Ankle Surgeons,  
New York Division, 2004-2010

Vice President, American College of Foot and Ankle Surgeons,  
New York Division, 1997-2003

Executive Committee, American College of Foot and Ankle Surgeons,  
New York Division, 1997-2011

Scientific Co-Chairman,  
American College of Foot and Ankle Surgeons,  
New York Division, 1997-2010

Member, New York State Podiatric Medical Association 1989-Present

Staff Podiatrist, Joslin Diabetes Center, NYC, 1995-1997

**MEDICAL SOCIETIES:**

American Podiatric Medical Association, 1989- Present

New York State Podiatric Medical Association, 1991- Present

American Board of Foot and Ankle Surgery, 1994- Present

American College of Foot and Ankle Surgeons, Fellow, 1994- Present

**HONORS:**

Graduated Cum Laude, New York College of Podiatric Medicine

Dean's List, New York College of Podiatric Medicine

1st Place Surgical Scholarship Award from the New York State Chapter of the American College of Foot Surgeons

Member, Pi Delta Academic Honor Society, New York College of Podiatric Medicine

Member, Pi Mu Delta Service Honor Society, New York College of Podiatric Medicine

Dean's List, Northwestern University

Member, Alpha Lambda Delta National Honor Society, Northwestern University

Member, Phi Eta Sigma National Honor Society, Northwestern University

Member, Omicron Delta Epsilon National Honor Society in Economics, Northwestern University

**PUBLICATIONS:**

"Crepitant Cellulitis, a Polymicrobial Infection of the Diabetic Lower Extremity." Journal of the American Podiatric Medical Association, April 1989.

"Plantar Approach to Heel Surgery." Journal of Foot Surgery, December, 1991.

Tendon Transfers of the Foot and Leg. In Marcinko, D.E., (ed), Medical and Surgical Therapeutics of the Foot and Ankle. Baltimore, Williams & Wilkins, April 1992.

The Akin Osteotomy and its Modifications. In Marcinko, D.E., (ed), Comprehensive Textbook of Hallux Valgus Reconstruction. St. Louis, Mosby Co., 1992.

General Principles of Hallux Abducto Valgus Reconstruction. In Marcinko, D.E., (ed), Comprehensive Textbook of Hallux Valgus Reconstruction. St. Louis, Mosby Co., 1992.

Postoperative Narcotic and Non-Narcotic Analgesics. In Giacalone, V., (ed), Clinics in Podiatric Medicine and Surgery. February, 1992.

Retrospective Analysis of the Mau Osteotomy and Effect of a Fibular Sesamoidectomy, Journal of Foot and Ankle Surgery, May/June 1998.

The Mau and Ludloff Midshaft Osteotomies. In McGlammy 3rd Ed. Reconstructive Foot Surgery, Williams & Wilkins, 2001

Ankle Block. Kay J, Delmonte R, Greenberg, P. in Textbook of Regional Anesthesia and Acute Pain Management, McGraw Hill 2007. Ed. Admir Hadzic pp 545-553;

Ankle Block. Kay J, Delmonte R, Greenberg, P. in Textbook of Regional Anesthesia and Acute Pain Management, McGraw Hill 2017. Ed. Admir Hadzic pp 1427-1434

Metastasis Of Cutaneous B-Cell Lymphoma Affecting the Metatarsal Head: A Case Report.  
In J Am Podiatr Med Assoc 2021 Mar 1;111

Comparison of Lateral Ankle Pathology Operative Findings to MRI Findings. In Process

#### **PRESENTATIONS:**

CASE PRESENTATION, OSTEIOD OSTEOMA. Podiatry resident lecture series. St. Clare's Hospital, NYC, Spring 1992

MIDSHAFT BUNIONECTOMIES, SCARF & MAU OSTEOTOMIES. Podiatry resident lecture series. St. Clare's Hospital, NYC, Spring 1992

ANKLE EQUINUS, DIAGNOSIS & TREATMENT. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1992

MIDSHAFT BUNIONECTOMIES, SCARF & MAU OSTEOTOMIES. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1992

ABSORBABLE PIN FIXATION IN HAMMERTOE SURGERY. Podiatry resident lecture series. St. Clare's Hospital, NYC, Spring 1993

MIDSHAFT BUNIONECTOMIES, SCARF & MAU OSTEOTOMIES. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1993

EVALUATION AND MANAGEMENT OF HEEL PAIN. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1994

ENDOSCOPIC PLANTAR FASCIOTOMY. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1994

PES PLANUS, EVALUATION OF PLANAL DOMINANCE AND TREATMENT. Podiatry resident lecture series. St. Clare's Hospital, NYC, Spring 1995

PROPER DIABETIC FOOT CARE. St. Luke's Hospital Outpatient lecture series, NYC, 1995.

EVALUATION AND MANAGEMENT OF HEEL PAIN. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1995



ENDOSCOPIC PLANTAR FASCIOTOMY. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1995

PROPER DIABETIC FOOT CARE. Joslin Diabetes Center, Patient Education series. NYC. 1996

EVALUATION AND MANAGEMENT OF DIABETIC FOOT ULCERS. Podiatry resident lecture series. St. Clare's Hospital, NYC, 1996.

EVALUATION AND MANAGEMENT OF HEEL PAIN. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1996

ENDOSCOPIC PLANTAR FASCIOTOMY. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1996

PROPER DIABETIC FOOT CARE. St. Luke's Hospital Outpatient lecture series, NYC, 1997

EVALUATION AND MANAGEMENT OF HEEL PAIN. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1997

ENDOSCOPIC PLANTAR FASCIOTOMY. Podiatry resident lecture series. St. Clare's Hospital, NYC, Fall 1997

PROPER DIABETIC FOOT CARE. Joslin Diabetes Center, Patient Education series. NYC 1997

EVALUATION AND MANAGEMENT OF DIABETIC FOOT ULCERS. Podiatry resident lecture series. St. Clare's Hospital, NYC, 1997

EVALUATION AND MANAGEMENT OF DIABETIC FOOT ULCERS. St. Luke's Hospital, Endocrinology Dept. NYC, 1997

COMMON PODIATRIC PROBLEMS FOR THE PRIMARY CARE PHYSICIAN. St. Luke's-Roosevelt Hospital, NYC, Medical resident lecture series. September, 1997

COMMON PODIATRIC PROBLEMS FOR THE PRIMARY CARE PHYSICIAN. St. Luke's-Roosevelt Hospital, NYC, Medical resident lecture series. September, 1998

PODIATRIC SPORTSMEDICINE FOR THE PRIMARY CARE PHYSICIAN. St. Luke's-Roosevelt Hospital, NYC, Medical resident lecture series. September, 1998

Course Moderator: Diagnostic Imaging of the Foot & Ankle, ACFAS, NY Division, New York, NY., September 16, 1998.

Scientific Co-Chair Evaluation & Management of Hallux Limitus/ Rigidus, Spring Seminar, ACFAS, NY Division, New York, NY. April 25, 1999

EVALUATION AND MANAGEMENT OF DIABETIC ULCERS, St. Clare's Hospital. Lederle Dinner Lecture, New York, NY. November 30, 1999

DIABETIC FOOT ULCERS; EPIDEMIOLOGY, ETIOLOGY & THERAPEUTIC STRATEGY; Centers of Wound Healing Excellence. New York, NY. December 9, 1999

Scientific Co-Chair Spring Seminar, ACFAS, NY Division, *Diabetes 2000*, New York, NY. May 7, 2000

Course Moderator Surgical Management of Charcot Deformity, Spring Seminar, ACFAS, NY Division, New York, NY. May 7, 2000

CHARCOT FOOT; DIAGNOSIS AND MANAGEMENT, St. Clare's Hospital. New York, NY. December 6, 2000

CHARCOT FOOT; DIAGNOSIS AND MANAGEMENT, Endocrinology Grand Rounds, St. Luke's Hospital. New York, NY. February 28, 2001

COMMON PODIATRIC PROBLEMS, Barnard College- Columbia University Health Center, New York, NY. May 3, 2001

Scientific Co-Chair, Dinner Meeting, ACFAS, NY Division, New York, NY. November 4, 2004

Scientific Co-Chair Spring Seminar, ACFAS, NY Division. New York, NY. April 3, 2005

Scientific Co-Chair ACFAS, NY Division, Dinner Meeting New York, NY. June 5, 2005

DIABETES AND YOUR FEET, Ernst & Young, New York, NY August 2005

CHANGING THE NATURAL HISTORY OF DIABETIC NEUROPATHY Endocrine Grand Rounds, St. Luke's Hospital September 21, 2005

PODIATRIC MEDICINE FOR THE PRIMARY CARE PHYSICIAN. Cornell Medical Group-Tribeca May 17, 2012

PODIATRIC MEDICINE FOR THE PRIMARY CARE PHYSICIAN. Cornell Medical Group-Tribeca April 28, 2015

SKIN FLAPS in PODIATRIC SURGERY, Mount Sinai Hospital, Podiatry Resident Lecture, July 20, 2015

FOOT AND ANKLE PATHOLOGY. NYU Langone Medical Center, ACWS FGP; March 10, 2016

FOOT AND ANKLE PATHOLOGY. NYU Langone Medical Center, Joan H. Tisch Center for Women's Health; March 16, 2016

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# EXHIBIT B



**Paul M. Greenberg, DPM, FACFAS**  
Podiatrist  
Diplomate, American Board of Foot and Ankle Surgery  
Fellow, American Academy of Podiatric Sports Medicine

August 13, 2021

Mr. Ryan Dempsey, Esq  
Gordon Rees Scully Mansukhani  
500 Mamaroneck Avenue, Suite 503  
Harrison, NY 10528

On August 5, 2021, I was contacted by Ryan Dempsey of Gordon Rees Scully Mansukhani, and was requested to perform an Independent Medical Examination on Mr. Lenny Molina.

Mr. Molina, a 41-year-old male, presented on August 13, 2021 for the examination. He presented by himself, casually dressed without evidence of distress. He was pleasant and cooperative.

Mr. Molina, relates the following subjective history. He describes dropping a bin on his left great toe (hallux) on approximately March 14, 2020. He presented to an emergency room in Bayonne New Jersey, had x-rays of the left hallux which revealed a comminuted distal phalanx fracture (he showed me a photograph on his phone.) The toe was splinted, and he was given crutches. The following Monday he was evaluated by podiatrist in New York City, x-rays were obtained, CAM boot was dispensed. Mr. Molina describes using the cam boot for 4 months. He then returned to light duty.

At this time, he complains of "spasms and cramping" in the toe causing flexion. This happens approximately three times a week. He describes "numbness" in the left hallux. He is currently working as a chef. He denies any significant pain. He denies any rest pain. Upon questioning, he does describe mild right hip pain unrelated to his injury. He does have a history of previous trimalleolar fracture with ORIF of the left ankle approximately 10 years ago.

Allergies: No Known Allergies

Medications:

Current Outpatient Medications  
Medication

- ibuprofen (ADVIL; MOTRIN)  
800 mg tablet

Sig

TAKE 1 TABLET BY MOUTH TWICE A DAY WITH  
FOOD OR MILK

No current facility-administered medications for this visit.

Past Medical History: History reviewed. No pertinent past medical history.

**Past Surgical History:****Procedure****Laterality****Date**

- ANKLE SURGERY  
Left Ankle

**Social History:****Social History****Occupational History**

- Not on file

**Tobacco Use**

- Smoking status: Never Smoker
- Smokeless tobacco: Never Used

**Substance and Sexual Activity**

- Alcohol use: Not Currently
- Drug use: Yes
- Types: Marijuana
- Sexual activity: Not on file

**Other Topics**

- Not on file

**Social History Narrative**

- Not on file

**Objective:****Vitals:**

08/13/21 1244

BP: 115/78

Pulse: 99

Temp: 37.1 °C (98.8 °F)

Body mass index is 27.37 kg/m<sup>2</sup>.

**Vascular Exam:** Dorsalis pedis pulses are 2/4 left and 2/4 right while posterior tibial pulses are graded at 2/4 left and 2/4 right. Digital hair growth is present left and present right. Capillary Fill Time with the leg elevated at the distal hallux was less than 3 seconds left and less than 3 seconds right. There is no evidence of ischemic skin changes. Temperature gradient was warm to warm left and warm to warm right measured from proximal leg to distal foot.

**Neurological:** Altered sharp dull sensation of the left hallux at the proximal medial nail fold. All other sharp dull sensation within normal limits. Vibratory sensation within normal limits. No evidence of allodynia. Normal muscle mass appreciated to both the lower extremity and foot bilateral.

**Dermatology:** Gray nail polish was present on the toenails. Upon removal of the nail polish, the left hallux nail plate is normal and clear without onychodystrophy, discoloration, any evidence of residual subungual hematoma or signs of onychomycosis. There is no evidence of edema, erythema, ecchymosis, open lesions, interdigital maceration, or signs of bacterial or fungal infection bilateral lower extremities. No varicosities, telangectasias, pigmented lesions or signs of venous stasis changes bilateral lower extremities. A scar is noted at the lateral aspect of the left ankle from previous ankle surgery.

**Musculoskeletal:** There is no pain on palpation of the left hallux. There is no pain with range of motion of either hallux interphalangeal joint or metatarsophalangeal joint. No limitation of motion is noted. No crepitus on range of motion is noted. No spasm is noted. There is no pain on palpation or range of motion of any of the lesser toes. Muscle tone is normal. Inspection and palpation of bones, joints and muscles is unremarkable. Left and right ankle ROM within normal limits. Left and right STJ ROM within normal limits. Left and right MTJ ROM within normal limits.

Gait and station examination reveals normal arm swing with normal heel-toe and tandem walking.

**Lymphatic:** no lymphadenopathy, no edema

**Psychiatric:** Normal mood and affect

**X-rays left foot:** Anterior-posterior, medial oblique, lateral oblique, lateral and isolated lateral views of the left foot: Previous comminuted fracture left hallux distal phalanx is fully consolidated and healed. No evidence of non-union or malposition. Under magnification, residual radiolucency consistent with previous fracture distal tip of the distal tuft of the distal phalanx, left hallux, noted on the anterior posterior and medial oblique view. The hallux interphalangeal joint is normal without narrowing, cysts, spurs or any evidence of posttraumatic arthritis. A hallux interphalangeal joint sesamoid is noted. All other joints appear normal. Fixation is present in the ankle, including plate on the fibula and two screws in the medial malleolus. Separate ankle views were not obtained. A small retrocalcaneal calcific deposit is noted.

Before rendering an opinion, I reviewed a number of documents including:

- 1) Equal Employment Opportunity Commission Charge of Discrimination; Molina v Hornblower
- 2) Plaintiff's Initial Disclosures; Lenny Molina v Hornblower et al
- 3) Plaintiff's Responses & Objections to Defendants' First Request for Interrogatories; Lenny Molina v Hornblower et al
- 4) Plaintiff's Responses & Objections to Defendants' First Request for the Production of Documents; Lenny Molina v Hornblower et al
- 5) 46 scanned pages including pay stubs, correspondence, photos of the great toe and x-rays, copies of doctor's letters, copies of text messages and copies of legal filings.
- 6) 21 pages of Chart Notes from Foot + Ankle Surgeons of New York; 3/20/2020 thru 6/20/2020


Mr. Molina sustained a fracture of the distal phalanx of the left hallux in March 2020. He has no pain on physical examination. He has normal range of motion. He is fully functional. There is no evidence of spasm or toe flexion. There is mildly altered sensation at the proximal nail fold of the left hallux, which can be caused by many factors although is functionally insignificant. He is currently working. There is no evidence of disability either permanent or temporary at this time.

My assessment is Mr. Molina has a fully healed fracture of the left hallux (great toe) distal phalanx without any permanent disability.

This is a common injury. Mr. Molina was treated appropriately. Some patients with this injury return to work immediately, others may be out for a few weeks or months depending on the demands of their occupation, i.e. are they sitting or standing for work. Mr. Molina is a chef who works on his feet. He healed without incident. He is currently working. There is no evidence of permanent disability or functional limitation.

If you require further information, please contact me.

Sincerely,



Paul M Greenberg, D.P.M., FACFAS

**Paul M. Greenberg, D.P.M.**

Fellow, American College of Foot and Ankle Surgeons  
Fellow, American Academy of Podiatric Sports Medicine

Department of Orthopedic Surgery  
NYU School of Medicine

NYU Langone Health  
NYU Faculty Group Practice Podiatry-Upper West Side  
101 West 79 Street  
New York, NY 10024

T 212-874-3578

F 212-496-6601

[Paul.Greenberg@nyulangone.org](mailto:Paul.Greenberg@nyulangone.org)  
[nyulangone.org](http://nyulangone.org)